

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**ROBERT CHAVEZ
On behalf of E.C.,**

Plaintiff,

Case No. _____

v.

**ESPAÑOLA PUBLIC SCHOOLS and
BOARD OF EDUCATION of Espanola Public Schools,**

Defendants.

**COMPLAINT FOR AWARD OF ATTORNEYS FEES AND COSTS PURSUANT TO
INDIVIDUALS WITH DISABILITIES EDUCATION ACT**

Introduction

1. This is a complaint for attorneys' fees and costs in connection with an administrative action to enforce a student's right to a free appropriate public education under the Individuals with Disabilities Education Act. Plaintiff was the prevailing party and this action is brought pursuant to 20 U.S.C. §1415(i)(3).

Jurisdiction

2. This Court has jurisdiction pursuant to 20 U.S.C. §1415(i) of the Individuals with Disabilities Education Act ("IDEA").

Venue

3. All parties reside in New Mexico and the claims arose in New Mexico. Venue properly rests in the United States District Court for the District of New Mexico.

Parties

4. Plaintiff Robert Chavez is the parent of E.C. At all material times, E.C. was a student living in the Espanola Public Schools district. Plaintiff resides in San Juan Pueblo, Rio Arriba County, New Mexico.

5. Defendant Espanola Public Schools (“EPS”) is a local public school district located in Rio Arriba County, New Mexico and organized pursuant to the laws of the State of New Mexico. EPS receives federal funds under IDEA for delivery of special education services to its students who qualify for receipt of services on the basis of disability.

6. Defendant Board of Education of EPS is established by the New Mexico Constitution and state law as the entity which supervises and controls the EPS.

Factual Allegations

7. On May 14, 2010, Plaintiff filed a request for a due process hearing with the New Mexico State Department of Education pursuant to 20 U.S.C. §1415(f) and 6.31.2.13(I) NMAC.

8. In the May 14, 2010 due process hearing request, Plaintiff alleged that EPS had failed and refused to identify E.C. as a student eligible for receipt of special education and otherwise denied E.C. a free appropriate public education in violation of the IDEA.

9. The New Mexico State Department of Education appointed a Due Process Hearing Officer (DPHO) who held a due process hearing over six days in October, 2010. The DPHO issued a decision on January 5, 2011.

10. Neither party appealed the decision of the DPHO, and the time for administrative appeal expired on or about February 5, 2011.

11. The administrative proceedings are complete. The proceedings resulted in a decision that EPS had violated E.C.’s rights under the IEDA, ordered the District to identify E.C.

as a student eligible for special education, and an award of compensatory education services and other equitable relief for E.C.

12. Plaintiff substantially prevailed in the administrative proceedings.
13. Plaintiff is entitled to an award of attorneys' fees and related taxable or non-taxable costs pursuant to the IDEA, 20 U.S.C. §1415(i), related to the administrative proceedings.

Prayer for Relief

Plaintiff requests the following relief:

1. An award of reasonable attorney's fees and costs in connection with the administrative proceedings under the IDEA.
2. An award of attorney's fees and costs for additional attorneys' fees and costs associated with this Complaint.
3. An award of such other relief as the Court deems just and proper.

Respectfully submitted,

Electronically signed and submitted

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